



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

---

*In the matter of*

**NEW MEXICO PUBLIC EDUCATION  
DEPARTMENT**

**Docket No. 20-16-I**

Federal Impact Aid

Respondent.

---

**SECRETARY’S DECISION PURSUANT TO SETTLEMENT AGREEMENT**

On January 31, 2023, I issued an indicative order pursuant to a settlement agreement between the parties to the above-captioned case. I agreed that, upon remand of this case from the United States Court of Appeals for the Tenth Circuit, I would issue a decision affirming the decision of the Administrative Law Judge (ALJ) on appeal with specific terms based on the settlement agreement. On February 2, 2023, the Tenth Circuit dismissed the case and transferred jurisdiction back to the U.S. Department of Education. Accordingly, I issue the following decision.

The following decision is based solely on the settlement agreement between the parties appearing in *Board of Education for the Gallup-McKinley County Schools and Board of Education for the Grants/Cibola County Schools v. United States Department of Education*, No. 21-9568 (10<sup>th</sup> Cir.).

Due to the unique facts and circumstances which I find are specific only to this case, I affirm the ALJ’s January 15, 2021, holding in the administrative matter No. 20-16-I (Federal Impact Aid Proceeding). Affirming this decision means “[t]he April 15, 2020 determination is deemed a final agency determination and is not subject to reconsideration by the Department. NMPED has failed the disparity test for SFY 2020 and must now refund to each LEA an amount equal to the amount that NM deducted from its State aid provided to each LEA for SFY 2020.” (OES Document No. 34 at 18).

The January 15, 2021, ALJ decision is binding on all parties that participated before the ALJ. However, because of the unique facts and circumstances underlying that decision, the ALJ’s decision and this Order do not create a rule of general application or establish precedent regarding IAP’s ability or authority to reconsider future determinations made under Section 7009 of the ESEA.

This Order is final and there is no further means of administrative appeal of this matter.

So ordered this 6th day of March 2023.



---

Miguel A. Cardona, Ed.D.  
U.S. Secretary of Education

Washington, DC

## Service List

Jennifer S. Mauskapf, Esq.  
Brustein & Manasevit, PLLC  
1023 15<sup>th</sup> St. N.W., Suite 500  
Washington, DC 20005  
[jmauskapf@bruman.com](mailto:jmauskapf@bruman.com)  
*Attorneys for New Mexico Public Education Department*

Andrew M. Sanchez, Esq.  
Himes, Petrarca & Fester  
5051 Journal Center Blvd., N.E., Suite 320  
Albuquerque, NM 87109  
[asanchez@edlawyer.com](mailto:asanchez@edlawyer.com)  
*Attorney for Gallup-McKinley County Schools and  
Grants/Cibola County Schools*

Ronald J. VanAmberg, Esq.  
VanAmberg, Rogers, Yepa, Abeita,  
Gomez, & Wilkinson, LLP  
P.O. Box 1447  
Santa Fe, NM 87504-1447  
[ryanamberg@nmlawgroup.com](mailto:ryanamberg@nmlawgroup.com)  
*Attorney for the Zuni Public School District*

Germaine Chappelle, Esq.  
Chappelle Law  
1027 Camino Rancheros  
Santa Fe, NM 87505  
[gchappelle.law@gmail.com](mailto:gchappelle.law@gmail.com)  
*Attorney for Central Consolidated School District*

Laurie Wiesner, Esq.  
Colin Bishop, Esq.  
Office of the General Counsel  
U.S. Department of Education  
400 Maryland Ave., S.W.  
Washington, DC 20202  
[laurie.wiesner@ed.gov](mailto:laurie.wiesner@ed.gov)  
[colin.bishop@ed.gov](mailto:colin.bishop@ed.gov)  
*Attorneys for the Assistant Secretary for  
Elementary and Secondary Education*